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 Reply to Office Action dated May 17, 2004

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REMARKS

Upon entry of this Amendment, claims 1, 4-16 remain in the Application.

The Office Action of May 17, 2004 has been received and carefully considered. In response thereto, this Amendment is being submitted. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Reconsideration is, therefore, respectfully requested.

Initially, the Examiner has objected to claim 5 because of the informality noted therein. Claim 5 has been amended to address this informality.

The Examiner has indicated that the claims 4-9 and 14 are objected to as being dependent upon a rejected base claim. However, these claims have been indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. This action seeks to present claims 4-9 and 14 in such format. Thus, it is submitted that the Applicant's invention as set forth in claims 4-9 and 14 is in a condition suitable for allowance.

Claims 1, 10-13, 15, and 16 currently stand rejected under 35 U.S.C. § 102(e) as being anticipated by Viken '657. The Examiner indicates that the Viken reference discloses a transmission fluid exchange system that utilizes a source of compressed air in moving fluids in and out of the exchange system as well as in and out of the associated transmission. With regard to claims 11-13, 15, and 16, the Examiner indicates that the method as claimed would be inherent during normal use and operation of the device.

Claim 1 currently stands rejected under 35 U.S.C. § 102(e) as being anticipated by Viken. The Applicant's invention as set forth in claim 1 is directed to an apparatus having means disposed in the transmission fluid recirculating system for introducing pressurized gas to the system for facilitating the removal of transmission fluid. The device also includes a waste fluid receptacle for receiving waste transmission fluid and means for conveying waste transmission fluid evacuated from the vehicle to the waste fluid receptacle. The device as set forth in claim 1 as amended also includes means for introducing fresh transmission oil. The

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means enumerated in claim 1 include at least one fresh transmission oil supply reservoir and a conduit in fluid communication with the fresh transmission oil supply reservoir that is releasably engageable with the transmission fluid recirculating system. The invention as set forth in claim 1 as amended also includes means for sequentially actuating the pressurized gas introduction means and the means for introducing fresh transmission oil. Support for claim 1 as amended is found in claims 1, 2, and 3 as originally filed, and in the specification variously as at paragraph 19.

It is respectfully submitted that the Viken reference is directed to an apparatus for removing spent fluid and simultaneously supplying fresh fluid from a pressurized supply receptacle. It is respectfully submitted that the Viken reference fails to teach or suggest the sequential nature of the present invention as set forth in claim 1. The Applicant's invention as set forth in claim 1 is not taught, anticipated, or rendered obvious by claim 1.

Claim 10 currently stands rejected under 35 U.S.C. § 102(e) as being anticipated by the Viken reference. Claim 10 depends from independent claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention as set forth in claim 10 is not taught, anticipated or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 1.

Claims 11-13 currently stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Viken reference. The Applicant's invention as set forth in claim 11 is directed to a method for removing at least a portion of transmission fluid contained in a vehicle. The method includes introducing pressurized gas to the system for facilitating removal of the spent transmission fluid and providing a waste fluid receptacle for receiving the waste transmission fluid. The method as set forth in claim 11 further includes the step of introducing fresh transmission oil into the fluid circulating system such that the pressurized gas introduction step and the fresh transmission oil introduction step occurs sequentially. It is respectfully submitted that the Viken reference fails to teach or suggest a method for removing at least a portion of transmission fluid contained in a vehicle in which removal and introduction of fresh transmission oil occurs sequentially. Thus, it is submitted that the Applicant's invention as set forth in claim 11 is not taught, anticipated, or rendered obvious by the cited reference.

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Claims 12-16 currently stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Viken reference. Claims 12-16 currently depend either directly or indirectly from claim 11 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention as set forth in claims 12-16 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 11.

In summary, claims 1, 4, 5, 8, 11, and 14 have been amended. Claims 2 and 3 have been canceled by this action. It is submitted that, by this action, claims 1 and 4-16 are in a condition suitable for allowance. Notice of allowance is, therefore, respectfully requested.

Respectfully submitted,

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